AFFIDAVIT OF DAVID R. SANDMAN Ph.D

PART 5 OF 8

WESTERN REGION

ACUTE CARE RECOMMENDATIONS

Recommendation 1

Facility (ies)

Millard Fillmore Hospital – Gates Circle (Erie County)

Recommended Action

It is recommended that Millard Fillmore Hospital – Gates Circle close in an orderly fashion. It is further recommended that Millard Fillmore Hospital – Gates Circle's 75 RHCF beds be preserved and transferred to DeGraff Memorial Hospital.

Facility Description(s)

Millard Fillmore Hospital - Gates Circle is a 189-bed, acute care hospital, and is a member of the Kaleida Health Care System. It provides emergency, medical/surgical and outpatient care. Gates Circle has specialized programs in neurology and stroke care, and is a designated stroke center in the Western Region. Gates Circle had approximately 7,800 discharges and 18,000 emergency department visits in 2004. Medicaid-covered and uninsured patients represented 10% of total discharges. Approximately 26% of inpatients live in medically underserved areas. Gates Circle also houses 75 skilled nursing facility beds, which offers subacute short-term rehabilitation care.

Assessment

Erie County, in which Millard Fillmore Hospital – Gates Circle is located, has substantial excess inpatient capacity. The greater Buffalo metropolitan area and Erie County's population continues to shrink. Erie County's population is projected to further decline by 15% between 2000 and 2030. Erie County's inpatient capacity, however, has not correspondingly dropped. As a result, there are numerous underutilized facilities in the Buffalo area. To preserve competitive market balance, it is essential that both of the region's two major hospital systems – Kaleida Health and Catholic Health System – participate in downsizing their facility infrastructure.

Within the Kaleida System, Millard Fillmore Hospital – Gates Circle has been identified as the optimal candidate for closure. Among the Kaleida System hospitals, the Gates Circle campus is outdated and in need of extensive capital upgrades. It is underutilized, and had an occupancy rate of 59% of certified beds in 2004. Analysis measuring Gates Circle's capacity to close indicated that all of its patients could be readily absorbed by its coverage partners, which include Buffalo General (also a Kaleida member), Erie County Medical Center, Sisters of Charity Buffalo, and Kenmore Mercy hospitals.

The hospital's long term debt is part of Kaleida Health 's $191 million indebtedness, including $155 million that is DASNY and HUD insured. Following consecutive losses in its first five years as a system, Kaleida Health had a positive and growing bottom line for the past three years. In 2005, Kaleida Health posted a $26 million profit on $935 million in revenues. Of those amounts, Millard Fillmore-Gates Circle contributed a $14 million surplus on revenues of $170 million. The remaining $12 million surplus was spread across the systems' other four hospitals and its nursing facilities.

Recommendation 2

Facility (ies)

St. Joseph Hospital of Cheektowaga, New York (Erie County)

Recommended Action

It is recommended that St. Joseph Hospital of Cheektowaga close in an orderly fashion.

Facility Description

St. Joseph Hospital of Cheektowaga, New York is a 208-bed acute care hospital, and a member of the Catholic Health System – Buffalo Hospital System. It provides emergency, medical/surgical, and outpatient care. The hospital had approximately 5,842 discharges and 22,477 emergency department visits in 2004. Medicaid-covered and uninsured cases represented just 5% of discharges, and 4% of patients came from medically underserved areas in 2004. St. Joseph's had a 3.4% operating margin in 2003. The hospital has $3.3 million of (non-DASNY) long-term debt. St. Joseph employed approximately 555 full time equivalent employees in 2003.

Assessment

As noted above, Erie County is substantially over-bedded and presents major opportunities for each of the major systems to downsize and reconfigure acute care services. Within the Catholic Health System, the underutilized St. Joseph Hospital has been identified as the optimal candidate for closure. St Joseph Hospital and Sisters of Charity Hospital, another member of the Catholic Health System, are less than 6 miles apart. Both of these hospitals have occupancy rates of less than 50% based on licensed beds. St. Joseph filled approximately 44% of its licensed beds and 58% of its available beds in 2004. Analysis performed by the Commission indicates that St. Joseph's patients could readily be absorbed by the hospital's coverage partners, which include Mercy Hospital and Sisters of Charity Hospital, which are both members of the Catholic Health

System, and by Millard Fillmore Suburban Hospital, Buffalo General Hospital, and the Erie County Medical Center. St. Joseph does not provide unique services and is not a major provider of care to vulnerable populations.

The Catholic Health System has developed creative and productive alternate uses for decommissioned hospitals and there may be potential to redevelop the St. Joseph site. Catholic Health System, for example, has worked with the New York State Department of Health to develop its Mercy Ambulatory Care Center (MACC) program in Orchard Park. The MACC has an emergency room and two inpatient beds for patients who require up to 36-hour length of stay. The campus also includes physician offices, a laboratory, x-ray machines, a pharmacy, and a diagnostic testing facility. Not all providers on the campus are part of the CHS; in fact, many are simply tenants in the facility's "medical mall."

Recommendation 3

Facility (ies)

DeGraff Memorial Hospital (Niagara County)

Recommended Action

It is recommended DeGraff Memorial Hospital downsize all 70 medical/surgical beds and cease operation as an acute care hospital. It is further recommended that DeGraff Memorial Hospital convert completely to a Residential Health Care Facility encompassing its existing 80 RHCF beds and the 75 RHCF beds to be transferred from Millard Fillmore Hospital- Gates Circle.

Facility Description(s)

DeGraff Memorial is a 70-bed acute care hospital, and a member of the Kaleida Health Care System. It provides emergency and medical/surgical care. It also houses an 80-bed skilled

nursing facility unit. DeGraff provided nearly 3,000 discharges and approximately 7,500 emergency department visits in 2004. 7% of its inpatients were Medicaid-covered or uninsured in 2004, and 2% of patients came from medically underserved areas.

Assessment

Using the Commission's framework criteria, DeGraff Memorial performed poorly on quality, viability, and availability of services. Analysis performed by the Commission indicated that its average daily census of 46 acute patients could be readily absorbed by the hospital's coverage partners, which include Kenmore Mercy, Millard Fillmore Suburban, Buffalo General, Saint Mary's, Erie County Medical Center, Sisters of Charity, Millard Fillmore and Women and Children's hospitals. The hospital's long term debt is reported with that of the Kaleida system.

There is an excess of medical/surgical beds in the Western region, and patients' access to care will not be compromised if DeGraff closes. Given the ready access to more comprehensive services at neighboring hospitals, there is no need for the medical/surgical component of DeGraff. However, as described in the long term care report, DeGraff operates a well-utilized skilled nursing facility that should be maintained. The occupancy of its SNF is 97%. DeGraff's physical plant is in good condition. The conversion of DeGraff to a long-term care facility will mitigate the effects of its closure as an acute care facility, and will enable the provision of needed long-term care services in the Buffalo metropolitan area.

Recommendation 4

Facility (ies)

Sheehan Memorial Hospital (Erie County)

Recommended Action

It is recommended that Sheehan Memorial Hospital be maintained as an Article 28 provider. It is further recommended that 69 medical/surgical beds at Sheehan Memorial hospital be downsized. It is further recommended that 22 inpatient detoxification beds currently at Erie County Medical Center be transferred to Sheehan Memorial Hospital, provided that the Commissioner of Alcoholism and Substance Abuse Services approves such transfers. It is further recommended that Sheehan Memorial Hospital enhance its community based ambulatory care services, be licensed to provide methadone maintenance, and be licensed as an Article 31 provider of outpatient psychiatric services, provided that the Commissioner of Alcoholism and Substance Abuse Services and Commissioner of Mental Health approve such actions.

Facility Description(s)

Sheehan Memorial Hospital is a safety net provider, and is located in a poor, underserved community in downtown Buffalo. Although it is licensed for 109 total beds, 69 medical/surgical beds were taken out of service in 2003. It currently operates 30 substance abuse rehabilitation beds and 10 medically managed detoxification beds. As part of its restructuring plan, Sheehan also closed its emergency room.

Sheehan operates at 90% occupancy of its staffed beds. It offers adult and pediatric primary care, diagnostic services, radiology, and has specialty clinics in gynecology, cardiology, orthopedics, pulmonary care, urology, general surgery, and podiatry. Sheehan had approximately 1,100 discharges in 2004. Its current ambulatory care volume is approximately 11,500 visits. With approximately 240 full-time equivalent employees, Sheehan is an important employer in its community and its large campus serves as a neighborhood anchor.

Sheehan is successfully executing a turnaround plan. Sheehan first entered chapter 11 bankruptcy protection in 2002. Following continuing financial and leadership problems, Sheehan reconstituted the Board under new leadership, and again sought chapter 11 bankruptcy protection in 2004. Sheehan has since engaged a new chief executive officer, entered into collaborative

relationships with Grace Manor Nursing Home and Kaleida Health, and cut costs by half. After suffering from yearly deficits, Sheehan posted a nearly $4 million surplus in 2005. Sheehan expects to emerge from bankruptcy in 2006 with a remaining $4 million debt service. It has virtually no pension obligations.

Built in 1976, Sheehan is among the newer hospitals in Erie County. The physical plant is in relatively good condition. One of its five floors that had housed medical/surgical beds is currently vacant.

Assessment

Sheehan has voluntarily downsized and reconfigured its services to align with the greatest needs of its community: substance abuse treatment and outpatient services. The closure of its emergency room and medical/surgical beds reduced duplicative services that are now provided by more comprehensive nearby facilities. The refocused Sheehan fills a critical need. In Erie County, Sheehan provides 38% of drug detoxification and rehabilitation services and 44% of hospital inpatient substance abuse services. Residents of Sheehan's service area are 2.3 times more likely to be admitted to substance abuse treatment programs than the County's residents as a whole.

It is feasible to close Sheehan. Sheehan has low utilization and is financially vulnerable. Its inpatients could be absorbed by its principal coverage partner, Erie County Medical Center. Sheehan is small and is not formally linked to a larger partner or system.

However, there are compelling reasons why Sheehan should remain open and be strengthened. Sheehan offers accessible, culturally competent primary and specialty care to a poor, underserved community whose members have higher rates of morbidity than Erie County residents as a whole. Seventy-nine percent of Sheehan's patients are minorities. One third of Sheehan's service area residents live in poverty, compared to 12% for Erie County as a whole. Forty percent of Sheehan's patients do not use a car as their primary means of transportation; many walk to Sheehan for care. Sixty-eight percent of Sheehan's detoxification/rehabilitation

patients have at least one physical co-morbidity, including cardiovascular disease, asthma, diabetes, hypertension, cancer or HIV.

Of the two inpatient substance abuse providers in Erie County, Sheehan and Erie County Medical Center(ECMC), only Sheehan is operating at capacity. At ECMC, substance abuse services are a minor component of the hospital's overall mission. The transfer of Erie County Medical Center's 22 detoxification beds to Sheehan would give patients the benefit of a comprehensive, focused, high quality program in a facility where substance abuse treatment is the major service line.

Sheehan is a vital provider of services to a community with severe health care needs. Following years of mismanagement, the current board and executive leadership is capable and committed. With a consolidation of substance abuse services and expansion of outpatient care, Sheehan provides access to health care for disadvantaged patients and is a public health asset worth preserving.

Recommendation 5

Facility (ies)

Erie County Medical Center/Erie County Medical Center Corporation (Erie County)
Buffalo General Hospital/Kaleida Health (Erie County)

Recommended Action

It is recommended that the facilities controlled by the Erie County Medical Center Corporation and Kaleida Health be joined under a single unified governance structure under the control of an entity other than Erie County Medical Center Corporation, Kaleida Health, or any other public benefit corporation. It is further recommended that this entity consist of a reconstituted single

board including representation of Kaleida Health, the Erie County Medical Center Corporation, the University at Buffalo School of Medicine and Biomedical Sciences, and community leaders. If the Commissioner of Health determines that the single board proposed by the member entities does not meet these requirements, it is further recommended that the Commissioner of Health alter the composition of the board to satisfy these requirements. It is further recommended that this entity have unified management with powers sufficient to compel the service mix provided at any of the individual institutions under its control. It is further recommended that the joined entity utilize existing infrastructure to the extent possible to consolidate all necessary services into clinical centers of excellence, including tertiary, quaternary, psychiatric, and long term care services. It is further recommended that the joined entity develop new infrastructure in which to locate comprehensive heart and vascular services. It is further recommended that the Commissioner of Health:

(i) Refrain from either approving any applications that have been or will be filed by either entity or providing any other consent requested by either facility, prior to the execution by the facilities of a binding agreement to join under a single unified governance structure pursuant to the terms of this recommendation, except where such approval or consent is necessary to protect the life, health, safety and welfare of facility patients, residents or staff;

(ii) If Kaleida Health and Erie County Medical Center Corporation fail to execute such an agreement by December 31, 2007, close either Buffalo General Hospital or Erie County Medical Center and expand the other to accommodate the patient volume of the closed facility; and

(iii) Present to the State Legislature any necessary draft legislation in a time and manner sufficient to implement this recommendation by June 30, 2008.

Facility Description(s)

Erie County Medical Center (ECMC) is a 550-bed hospital sponsored by a public benefit corporation established in 2004. The hospital is situated on 67-acre, largely undeveloped campus. ECMC provides comprehensive acute care services, including level I trauma, burn care, kidney transplant, psychiatry, physical medicine/rehabilitation, and detoxification services.

ECMC has one of the highest case mix indexes of all New York State hospitals. According to ECMC leadership, ECMC had approximately 12,000 discharges and 48,000 emergency department visits in 2005. Its numerous outpatient clinics had approximately 243,185 visits in 2004. ECMC serves a large number of indigent patients; approximately 25% of its inpatients were Medicaid-covered or uninsured in 2004, and 25% of its patients live in medically underserved areas. ECMC reports that approximately 70% of its 505 available beds are occupied. ECMC's main campus has 125 skilled nursing facility beds. In addition, ECMC operates the Erie County Home, a 586-bed skilled nursing facility. Virtually all of the nursing home beds operated by ECMC are occupied. ECMC has $106 million in long-term debt, most of which is secured by the County. ECMC has approximately 2,787 full-time-equivalent employees.

Recently resolved litigation required that the County subsidize ECMC through 2008. The amount of this subsidy decreases each year: $28 million in 2004, $19 million in 2005, $20 million in 2006, $14 million in 2007. After 2008, the County will provide ECMC with $8 million annually as debt service coverage. ECMC finished in the black including the subsidy in 2005. It is projecting a surplus in 2006 of approximately $16 million.

Buffalo General Hospital (BGH) is a 501-bed member of the Kaleida Health Care System. BGH is located on the Buffalo Niagara Medical Campus, a densely developed site that also houses the Roswell Park Cancer Institute and other research institutions. BGH is the focal point for Kaleida's development of high-tech, tertiary care services. It provides comprehensive medical/surgical, psychiatry and physical medicine/rehabilitation services. It had approximately 17,000 discharges and 38,000 emergency department visits in 2004. Nineteen percent of BGH's inpatients were Medicaid-covered or uninsured in 2003, 23% of its patients live in medically underserved areas. The hospital reports an occupancy rate of 67% of its 501 available beds. BGH's long-term debt is reported together with other components of the Kaleida System. BGH has approximately 2,300 full-time-equivalent employees. Since its founding seven years ago, the Kaleida system has voluntarily decertified 638 beds and eliminated more than 1 million square feet of space.

Assessment

This recommendation is partly shaped by the particularities of Erie County and the Buffalo metropolitan area, including:

- The county is over-bedded, with more inpatient capacity than is required to meet the health care needs of its shrinking population.
- There is duplication of costly tertiary and quaternary services. Redundancy of these services reduces quality of care due to insufficient patient volume.
- Access to critical services, including psychiatry, trauma and burn care, must be maintained.
- There must be sufficient graduate medical education capacity to strengthen the academic mission of the University at Buffalo School of Medicine and ensure an adequate future supply of physicians.
- Erie County and the City of Buffalo both face serious economic challenges. Economic control boards oversee their finances.

A comprehensive plan to reconfigure service delivery in Buffalo must address ECMC. ECMC is burdened with substantial legacy costs from its establishment as a public benefit corporation (PBC) and from high fringe benefit costs embedded within its labor contract with a public employees union. When the Erie County Medical Center Corporation was launched in January 2004, it took over a large healthcare network that serves as the primary safety net provider to residents of Erie County.

The public benefit corporation was established with the assumption that it would provide area residents with quality health care, while reducing the fiscal burden on County taxpayers which in the six years ending in 2003, totaled $119 million in subsidies. Unfortunately, the public benefit corporation model did not resolve the financial crisis for the County. The Office of the Comptroller of NYS criticized the way in which ECMC was created, finding that Erie County had followed the same unsuccessful model used by Nassau and Westchester Counties, i.e., taking a public hospital that was losing significant amounts of money and encumbering it with

significant new debt, and setting it up as an independent agency with no specific new revenue or operational initiatives that would help it achieve self-sufficiency.

Erie County Medical Center and Buffalo General Hospital are both vital components of the local health care delivery system. Analysis of patient discharge data reveals that ECMC and BGH are each other's principal coverage partners. Each of these large facilities provides basic and high-tech services. They are both major teaching facilities for the State University of New York at Buffalo.

As competing institutions, the resources of ECMC and BGH are not leveraged in the most effective manner to benefit the community, contain costs, and drive improvements in quality of care. After considering numerous scenarios for the reorganization of services at ECMC and BGH, the Commission finds that combining ECMC and Kaleida into a new, not-for-profit entity with one board and chief executive is the optimal approach for the people of Erie County. A single entity will be able to reduce duplication of services, enhance quality of care, maintain the provision of public goods, reduce costs, preserve employment, and support an academic mission. While imperfect, the Commission further finds that this approach entails fewer risks, is less disruptive, and can be achieved at lower cost than other proposals that were considered.

ECMC and Kaleida themselves attempted to forge a combined entity on a voluntary basis. This effort broke down due to labor issues involving public and non-public employees and difficulties involved in working within a public benefit corporation structure. However, such a combined entity offers numerous advantages. It makes effective use of scarce resources because it does not demolish and rebuild infrastructure that already exists. The plan protects public goods currently provided by the facilities. The plan also maintains critically needed residency training slots that could otherwise be at risk. The facilities will be retained, maintaining a range of services for the community and preserving jobs. The public benefit corporation, however, would be dissolved, freeing the resulting new entity to compete in the market without the overhead imposed by its debt and excess labor costs.

There are complex challenges involved in dissolving a public benefit corporation and resolving the legacy issues at ECMC. Implementation of this recommendation may require statutory change by the legislature. Any substantive plan for reconfiguring service delivery in Erie County, however, must grapple with ECMC and confront the governance and labor challenges posed by the facility. Failure to do so is an unacceptable lost opportunity.

Recommendation 6

Facility (ies)

Lockport Memorial Hospital (Niagara County)
Inter-Community Memorial Hospital at Newfane (Niagara County)

Recommended Action

It is recommended that Lockport Memorial Hospital and Inter-Community Memorial Hospital at Newfane engage in a full asset merger and reconfiguration of services.

Facility Description(s)

Lockport Memorial Hospital has 134 licensed beds,and a 2004 average daily census of 71 patients. It provides medical/surgical, pediatric, obstetric, drug and alcohol rehabilitation, and outpatient services. It had approximately 4,691 discharges and 14,935 ED visits in 2004. Approximately 11% of inpatients were Medicaid-covered or uninsured in 2004. Its 2004 operating margin was -1%, and the hospital has reported a positive operating margin for 2005. Lockport has $12 million in long-term debt, $8.8 million of which is secured by DASNY and the federal Department of Housing and Urban Development.

Inter-Community Memorial at Newfane has 71 licensed beds, of which it staffs 51. Average daily census in 2004 was 32 patients. It provides medical/surgical, obstetric, pediatric, and

outpatient care. It had approximately 2,565 discharges and 7,837 emergency department visits in 2004. 14% of inpatients were Medicaid-covered or uninsured in 2004. Inter-Community's operating margin since 1994 has been positive. Inter-Community's 2004 operating margin was 1%. Inter-Community has approximately $5.3 million in (non-DASNY) long-term debt.

Assessment

Lockport Memorial and Inter-Community Memorial hospitals entered into an affiliation in 2000. Inter-Community helped stabilize Lockport's finances, and has since granted Lockport approximately $2 million in assistance. The two hospitals are controlled by a unregulated, passive parent, the Eastern Niagara Health System. They share a single executive staff and have consolidated certain operations, such as one clinical laboratory. There is some overlap between their medical staffs. Collectively they report achieving $1.8 million per year in savings through by having consolidated their operations.

The hospitals are approximately 10 miles apart, and share a similar patient base. Each hospital is the other's primary coverage partner. Despite their close proximity, neither facility should close. Eastern Niagara County is rural and lacks public transportation. Travel to both facilities is difficult, due partly to each hospital's dependence on a volunteer emergency medical system. In addition, the two hospital structure helps attracts physicians to serve a community in which parts are designated as medically undeserved.

Recommendation 7

Facility (ies)

Bertrand Chaffee Hospital (Erie County)
TLC Health Network – Lake Shore Hospital (Chautauqua County)
TLC Health Network – Tri-County Memorial Hospital (Cattaraugus County)
Brooks Memorial Hospital (Chautaqua County)
Westfield Memorial Hospital (Chautauqua County)

Recommended Action

It is recommended that Bertrand Chaffee Hospital downsize by at least 25 inpatient beds to less than 25 beds and seek designation as a Critical Access Hospital or sole community provider, and that Brooks Memorial Hospital seek designation as a sole community provider, and that:

(i) Bertrand Chaffee Hospital affiliate with TLC Tri-County and TLC Lake Shore;
(ii) TLC Tri-County downsize 28 medical/surgical beds, convert the remaining 10 medical/surgical beds to 10 detoxification beds provided that the Commissioner of Alcoholism and Substance Abuse Services approves such additions, and continue to provide chemical dependency, emergency and outpatient primary care services;
(iii) TLC Lake Shore downsize all 42 medical/surgical beds and 40 RHCF beds and convert its acute care services to an outpatient/urgent care center with Article 28 diagnostic and treatment center licensure;
(iv) TLC Lake Shore, at its option, either continue to provide mental health services or downsize all 20 psychiatric beds provided that approximately 20 psychiatric beds be added somewhere in southern Erie, northern Chautauqua or northern Cattaraugus Counties by another sponsor, pending completion of an RFP process and provided that the Commissioner of Mental Health approves such additions; and
(iv) Westfield Memorial Hospital downsize all 32 inpatient beds and convert to an outpatient/urgent care center with Article 28 diagnostic and treatment center licensure.

Facility Descriptions

Bertrand Chaffee, TLC Tri-County and TLC Lake Shore are three rural hospitals that form a cluster in the Southeast corner of the Commission's Western region. The TLC Network includes Lake Shore Health Care Center and Tri-County Memorial Hospital. Bertrand Chaffee is located to the east of these facilities, all of which are linked by Route 39. The baseline data on the acute care services offered by these three facilities is as follows:

2004 Data	Bertrand Chaffee	Tri-County	Lake Shore
Certified beds	49	62	62
Available beds	32	116	
Average daily census	16	24	33
Discharges	1,385	3,236	
% Medicaid-covered/uninsured	7%	11%	
Emergency department visits	9,308	17,680	
Operating margin (2003)	-4.8	-8.9	
Long-term debt	N/A	$11.9M (non-DASNY)	
Full-time equivalents (2003)	287	599	

Bertrand Chaffee has 49 certified beds, including a 45-bed medical/surgical unit and a 4-bed intensive care unit. Bertrand Chaffee also operates 80 residential health care facility beds.

TLC Health Network – Tri-County Memorial Hospital has 62 certified beds, including a 38-bed medical unit and a 24-bed chemical dependency (alcohol rehabilitation) unit. Tri-County, located in Gowanda, also operates 3 primary care clinics and 2 dental clinics.

TLC Health Network – Lake Shore Hospital has 62 certified beds, including a 39-bed medical/surgical unit, a 3-bed intensive care unit, and a 20-bed mental health unit. Lake Shore

also operates 160 residential health care facility beds and a 267-slot long term home health care program.

Brooks Memorial Hospital, located in downtown Dunkirk, has 99 licensed beds, and offers medical/surgical and maternity care. Brooks had approximately 3,386 discharges, 14,201 emergency department visits and 78,755 outpatient visits in 2004. Twelve percent of its discharges were of Medicaid-covered and uninsured patients in 2004. The hospital reported that 40% of its certified beds were occupied in 2004, and had a -1.9% operating margin in 2003. Brooks holds $3.3 million of (non-DASNY) long-term debt.

Westfield Memorial Hospital is a 32-bed hospital on the western border of Chautauqua County. It is a member of the St. Vincent Health System in Erie, Pennsylvania. It offers medical/surgical and obstetric inpatient care and outpatient care. Westfield had approximately 1,032 discharges and 6,455 emergency department visits in 2004. Eleven percent of its discharges in 2004 were Medicaid-covered or uninsured. Approximately 23% of its certified beds were occupied in 2004, and its 2003 operating margin was -0.5%. Its average daily census was 7 patients in 2004. Westfield holds $4 million of (non-DASNY) long-term debt.

Assessment

The geographic proximity of these small rural hospitals, coupled with their current clinical specializations, provide a unique opportunity to concentrate medical/surgical, psychiatric and chemical dependency services and to achieve substantial efficiencies. The affiliation of Bertrand Chaffee and TLC Network would include financial and management consolidation and implementation of a single information technology system. At this time, a committee with representation from each board and management as well as physicians, has been established to evaluate the affiliation.

Bertrand Chaffee has had significant financial difficulties and recently appealed to its community for financial support in order to remain open. The facility provides care to residents of Southern Erie County as well as Northeastern Cattaraugus County. The next closest acute care facility is

TLC Tri-County Memorial Hospital, which is approximately 18 miles away. This plan strengthens Bertrand Chaffee by providing the opportunity to become a sole community provider or Critical Access Hospital, thereby increasing reimbursement to the facility. Since the facility has an average daily census of 16, decreasing the number of licensed beds to 25 will not affect the ability of the hospital to provide necessary care to the community.

TLC Tri-County's 62 licensed beds includes 24 alcohol rehabilitation beds and 38 medical/surgical beds. The elimination of Tri-County's medical/surgical beds is essential to allow Bertrand Chaffee to qualify for such increased reimbursement. Moreover, such downsizing will allow Tri-County to expand its current specialization in the area of chemical dependency. Presently, the average daily census of Tri-County's 24 alcohol rehabilitation beds is 22, whereas its medical/surgical beds have an average daily census of only 3. The proposed redistribution of beds allows needed services to continue and expand to be provided in the community. The proposal also recognizes the need for the availability of emergency/urgent care for this rural community.

Lake Shore is located only 17 miles north of Brooks using the New York State Thruway. They share medical staff, and there are frequent referrals between the two. Similarly, Westfield Memorial is located approximately 23 miles south of Brooks via the Thruway. Brooks has had numerous updates over time, including a modernization within the past 4 years. Given Brooks' size and occupancy, it could easily absorb both Westfield's average daily census of 7 patients and Lake Shore's average daily medical/surgical census of 21 patients.

The decertification of both Lake Shore's and Westfield's inpatient beds will improve Brooks' occupancy and margin, resulting in more funds for reinvestment and better access to capital markets. Moreover, it will also allow Brooks to apply for sole community provider status, further improving the hospital's bottom line. This can be accomplished without limiting access to vital services in a rural setting. Both Lake Shore and Westfield should continue to provide urgent and ambulatory care. Given the size and mix of both Lake Shore and Westfield, it is appropriate that they become primarily emergent/urgent and ambulatory care campus. A complete closure of these facilities is not in the best interest of these rural communities.

Recommendation 8

Facility (ies)

Mount St. Mary's Hospital and Health Center (Niagara County)
Niagara Falls Memorial Medical Center (Niagara County)

Recommended Action

It is recommended that Mount St. Mary's Hospital and Health Center or its sponsoring entity and Niagara Falls Memorial Medical Center participate in discussions supervised by the Commissioner of Health to explore the creation of a single unified governance structure to end the medical arms race in Niagara County that is expending scarce resources on duplicative services. It is further recommended that the Commissioner refrain from either approving any applications that have been or will be filed by either facility or providing any other consent requested by either facility prior to the conclusion of such discussions, as determined by the Commissioner of Health, except where such approval or consent is necessary to protect the life, health, safety and welfare of facility patients, residents or staff. If either Mount St. Mary's Hospital and Health Center or its sponsoring entity or Niagara Falls Memorial Medical Center fail to participate in such discussions in good faith, as determined by the Commissioner of Health, it is recommended that the Commissioner of Health close that facility and expand the other to accommodate the patient volume of the closed facility.

Facility Description(s)

Mount St. Mary's Hospital and Health Center (MSM) is a 175-bed acute care facility, which became a member of the Ascension Health System in 1997. It provides medical/surgical, alcohol rehabilitation and maternity care, and has a level I perinatal care designation. In 2004, MSM's occupancy rate was 60.2% based on 175 certified beds and 67.8% based on its 155 available beds. Its average daily census was 105 patients in 2004. MSM's emergency department visits

decreased from 21,121 in 2003 to 20,342 in 2004. The hospital has approximately 722 full–time equivalent employees. Additionally, Our Lady of Peace Nursing Care Residence (OLP) is a separately incorporated affiliate of MSM that operates a 250-bed nursing home on MSM's campus.

Niagara Falls Memorial Medical Center (NFMMC) is a 183- bed acute care facility, which provides medical/surgical care and pediatric and psychiatric services. It too has a level I perinatal care designation. NFMMC's 2004 occupancy rate was 67.5%. NFMMC's 66 licensed psychiatric beds had an average daily census of 54 patients in 2004. NFMMC has had a steady increase in emergency department visits. In 2003, it had 24,296 emergency department visits, and in 2004, it had 24,673 visits. It has approximately 834 full-time equivalent employees.

MSM and NHMMC are located six miles apart.

Assessment

Duplication of services fuels the medical arms race and wastes limited resources. Maternity care is an obvious example of the duplication of services taking place in this area. MSM has ten licensed maternity beds with an average daily census of four, while NFMMC has sixteen licensed maternity beds also with an average daily census of four.

Approximately 9 years ago, MSM and NFMMC formed Health System of Niagara with the intention of combining the two hospitals. That effort met with resistance and the plan ultimately broke down. Today, the hospitals are fierce competitors.

According to MSM, Ascension Health provided NFMCC with approximately $23.5 million to go forward with the talks. After the deal fell apart, Ascension forgave all but $5.0 million of the debt. MSM believes that this situation put NFMMC in a better financial position, which continues today. While MSM had an operating margin of 2.2% in 2002, it decreased to -1.1% in 2003. Conversely, NFMMC had an operating margin of
-6.3% in 2002 which improved to a positive 0.4% by 2003.

The Niagara County community would be best served by an integrated provider with the capacity to rationalize services and ensure that health care needs are met within the community. The issues of religious identity and the amount of debt for each institution are formidable obstacles to overcome. Nonetheless, there is an opportunity to create a direction for the future organization of health services in Niagara County. Regional planning efforts would reduce duplication of services across the two facilities (e.g., emergency departments, medical/surgical beds, maternity, operating rooms), reduce administrative inefficiencies, limit the medical arms race between the facilities and ensure the future of health care availability in the area.

WESTERN REGION

LONG-TERM CARE RECOMMENDATIONS

Recommendation 1

Facility (ies)

Mount View Health Facility (Niagara County)

Recommended Action

It is recommended that Mount View Health Facility downsize all 172 RHCF beds, rebuild a new facility on its existing campus, and add a 100-bed ALP, a 50-slot ADHCP and possibly other non-institutional services.

Facility Description(s)

Mount View is a 172-bed residential health care facility, owned and operated by Niagara County. In addition to baseline services, Mount View operates a 25-slot adult day health care program.

The facility faces many problems, and has recently entered into a contract of sale with Senior Associates of Batavia. According to the County executive, the contract includes a clause that the sale becomes null and void if the Commission makes any recommendation that specifically affects this facility.

Challenges facing Mount View include:

- a very low occupancy (it has occupied less than 80% of its beds since 2004, and is currently runs at approximately 75% its capacity);

- a very outdated building, which was originally built as a school in the early twentieth century;
- a relatively low case mix (1.07), with 15% of its staffed beds occupied by low-acuity individuals; and,
- an uncertain financial viability. The facility loses approximately $2.5 million annually, and requires subsidization from Niagara County, which the taxpayers cannot afford.

According to the Niagara County manager and the facility's administrator, employee benefits comprise 52% of wages, which is unusually high.

Assessment

While the county legislature approved the facility's sale, this area of Niagara county requires the expansion of less-restrictive settings. It has less need for 24-hour skilled nursing care. The Mount View facility is located on an attractive campus, which could be redeveloped to house continuum-of-care services, including adult day care and an ALP. Approximately 125 individuals reside at Mount View, some of whom should be transferred to an ALP when it is established and built.

Recommendation 2

Facility (ies)

Nazareth Nursing Home and Mercy Hospital Skilled Nursing Facility (Erie County)

Recommended Action

It is recommended that:

(i) Nazareth Nursing Home downsize all 125 RHCF beds and the facility be converted for use as part of a PACE program to be added at the former Our Lady of Victory Hospital;

(ii) 10 RHCF beds be added to the 74 RHCF beds currently at Mercy Hospital Skilled Nursing Facility, and all 84 RHCF beds be transferred from Mercy Hospital Skilled Nursing Facility to the former Our Lady of Victory Hospital; and
(iii) 80 adult home beds at St. Elizabeth's Home of Lancaster in Erie County be converted to an 80-bed ALP.

Facility Description(s)

Nazareth Nursing Home, Mercy Hospital Skilled Nursing Facility, St. Elizabeth's Home of Lancaster and the Our Lady of Victory Hospital campus are members of the Catholic Health System of Western New York (CHS).

Nazareth Nursing Home is a freestanding, 125-bed not-for-profit residential health care facility that provides baseline services. Nazareth provides acceptable, quality care; the 2005 survey cited five deficiencies, which is the statewide average. It suffers with financial difficulties. According to the operators, the facility has losses of approximately $1 million annually, and occupancy declined from 96.7% in 2003 to 95.2% in 2004. Its case mix index was 1.09 in 2003.

Mercy Hospital Skilled Nursing Facility is a 74-bed hospital-based residential health care facility that provides baseline services. It has a reputation for providing quality care, is financially stable, and benefits from an extremely high occupancy, which was over 99% in 2003 and 2004.

St. Elizabeth's Home is a 117-bed adult home in extreme financial difficulty. Its operating cost per resident is approximately $60 per day, which is high and is about twice as much as the Supplementary Security Income (SSI) payments available for each resident.

Our Lady of Victory Hospital (OLV) was an acute care hospital prior to closing in 1999. The Catholic Health System (CHS) is converting the former OLV campus to facility that resembles a continuing care retirement community (CCRC), with a full continuum of long-term care services. These services will be provided in a five-building complex that will include a centrally-located Main Street-styled area, with a convenient medical office, retail stores and a park-like green

space. CHS is near completion of the initial phase of the project, which involves the development of 74 low-to-moderate-income senior housing units. CHS has also been authorized to work with the Department of Health to develop a Program of All-inclusive Care for the Elderly (PACE), which is pending. Finally, CHS has filed a pending certificate of need application to move its RHCF beds from Mercy Hospital to the OLV campus.

Assessment

As a whole, Erie County's long-term care delivery system must be restructured. While the average county occupancy in 2004 was strong (95%), there is a documented surplus of beds using the state's need methodology. Taking into account the number of low-acuity individuals in the beds, the county has nearly 200 excess beds. Approximately half of its non-institutional need, however, is unmet, and supportive housing for frail and disabled seniors is in short supply. CHS's plans to reconfigure its long-term care services are supported by the Commission.

This plan will stabilize or reconfigure CHS's facilities. First, the plan will help stabilize Nazareth Nursing Home. Although it changed ownership in 2000 when it was acquired by CHS, a timely certificate of need was not filed, so the facility was unable to take advantage of increased revenue due to its potential rebasing. According to CHS, this has resulted in a steady and crippling financial decline. CHS has stated that it will close Nazareth Nursing Home regardless of potential Commission recommendations. Nazareth's existing residents need to be transitioned before the nursing home closes.

Similarly, CHS has indicated that, absent some extraordinary changes, it will close St. Elizabeth's Home. CHS's overall plan must ensure that adequate community resources are available to address the dislocation that would result from such closures.

CHS plans on establishing a new ALP at St. Elizabeth's. Second, CHS also plans to transfer RHCF beds from the Mercy Hospital skilled nursing facility to a more home-like setting. This will benefit Erie County's acute and long-term care. Space will be made available for additional acute care services at the Mercy Hospital. According to CHS, the additional RHCF beds will

allow for a more efficient staffing and care model at 21 beds per unit. Finally, the conversion of OLV to a PACE will establish needed non-institutional services and provide the necessary bridge between the senior housing and RHCF components.

Recommendation 3

Facility (ies)

Williamsville Suburban, LLC (Erie County)

Recommended Action

It is recommended that Williamsville Suburban downsize all 220 RHCF beds.

Facility Description(s)

Williamsville Suburban is a proprietary 220-bed residential health care facility located in a suburb of Buffalo. It provides baseline services and outpatient physical and occupational therapy. It is part of the Legacy Group, which operates three facilities in Erie County. Williamsville Suburban is the largest facility in the group.

The Legacy Group has not submitted cost reports since 2002 and is in chapter 11 bankruptcy protection. Certified financial and occupancy data for the previous 4 years are unavailable.

For several years, the facility has had quality and survey problems. It has had an extremely high number of deficiencies when compared to the other facilities within the Western region and the entire state. The April 2006 survey recorded 22 deficiencies. The 2005 survey resulted in 26 deficiencies; its 2004 survey resulted in 31 deficiencies, including 2 immediate jeopardies. The statewide average is five deficiencies. Moreover, the facility complaint substantiation rate for 2001-2003 was 38.1%; the statewide average was 5.9%.

Their case-mix index was 1.13 in 2003, and they run a 40-bed sub-acute unit, which is self-reported to be approximately 60-75% full. It provides no other specialized care and no non-SNF services.

According to Williamsville Suburban's recent administrator, the facility improved under his leadership and turned a profit in 2005. This has not been verified; their report was unaudited. This administrator claimed that the most recent occupancy rate is 93%, and that they had approximately 38 low-acuity patients.

Assessment

Erie County's long-term care delivery system must be restructured. While the county's overall occupancy in 2004 was strong (95%), the State's bed need methodology indicates that there is a surplus of beds. After taking into account the number of low-acuity individuals in the beds, the county seems to have over 200 excess beds. Approximately half of its non-institutional need is unmet, and supportive housing for frail and disabled seniors continues to be an issue.

There is strong competition for nursing home residents in the Williamsville area. There are seven nursing homes in Williamsville, and as the population in Erie County declines, excess capacity in its long-term care delivery system will likely grow. The existing residents should be transitioned before Williamsville Suburban closes.

Recommendation 4

Facility (ies)

DeGraff Memorial Hospital Skilled Nursing Facility (Niagara County)
Millard Fillmore Gates Circle Skilled Nursing Facility (Erie County)

Recommended Action

It is recommended that Millard Fillmore Gates Circle downsize all 75 RHCF beds, and upon the closure of the acute care beds at DeGraff Memorial Hospital (see Western Region Acute Care Recommendation), that those 75 RHCF beds be added to DeGraff contingent upon the suitable conversion of DeGraff.

Facility Description(s)

DeGraff Memorial Hospital and Millard Fillmore Gates Circle Hospital are both recommended for closure (see acute care recommendations). Both these facilities house skilled nursing facility (SNF) units (80-beds and 75-beds, respectively), which provide baseline services and sub-acute care. DeGraff's SNF has a very high occupancy (97%) and occupancy at Gates Circle is relatively high, but has fallen in the last few years (from 98% in 2002 to 93% in 2005). Both have survey deficiencies slightly above the regional average of 5 (7 and 6 respectively) and no immediate jeopardy citations. Their financial performance is reported with their respective hospital's financial information.

Assessment

This recommendation would: 1) maintain an appropriate numbers of SNF beds in Erie and Niagara counties, 2) maintain the better skilled nursing service provider in Erie and Niagara counties, and 3) mitigate the impact of hospital closure by converting the DeGraff building to meet long-term care needs. DeGraff is located in a growing area. A SNF in that community would have value. It also would enable the preservation of other health care and health-related services in that community that could be co-located with the nursing home.

VIII. Financing

The Commission's recommendations will provide significant benefits to New Yorkers and various components of the health care system. First, the Commission's recommendations will promote stability of health care providers thereby assuring access to care, supporting the provision of public goods, enabling technology and capital reinvestments, and improving quality of care. Second, the Commission's recommendations will reduce unnecessary public and private health care spending and produce overall cost savings for all payors. Third, the Commission's recommendations will produce numerous opportunities for reinvestment in the system thereby providing substantial financial benefits to health care providers and the patients served by them.

Systemic changes require resources. Investments are necessary to implement the Commission's recommendations. Short term costs must be incurred to produce benefits in the immediate and long terms.

This section estimates the potential savings and costs that can be reasonably associated with the Commission's recommendations. These estimates are based on the experience of similar facility reconfigurations in the past and draw on the combined experience of the State Department of Health, the Dormitory Authority of the State of New York, and the State Division of the Budget. While the estimates are based on some substantial assumptions and carry a "band of error," they represent measurable phenomena and provide reasonable indicators of the order of magnitude of achievable efficiencies and necessary investments. These estimates also provide a useful tool for estimating an appropriate level of State investment in specific recommendations.

Caveats apply to these projections. Estimates of savings and costs are difficult to make absent the sort of detailed knowledge of facility operations possessed only by a facility operator. The Commission had substantial interaction with the operators of the facilities which are the subject of the Commission recommendations and obtained important proprietary information about those facilities. In no case, though, could an operator share all the necessary information with the Commission in light of the competitive interests of those facilities. Some important information may even be beyond the reach of facility operators. For instance, absent some compelling need, it would be unusual for an operator to have a current appraisal of its real property. Furthermore, actual savings and costs will be partially dependent on the decisions made by facility operators during the implementation process. Much of the implementation of

the recommendations will be influenced by the rapidity with which the market responds to such recommendations, the timing of available financing, and other external events impacting the need for facility capacity.

Potential Benefits and Reinvestment Opportunities for Providers

Significant benefits from system restructuring, including closure, downsizing, conversion or affiliation, accrue to health care providers thereby improving stability of the delivery system. Some of these cannot be quantified financially; they include the advantages of shared medical and administrative expertise, quality of care improvements attributable to consolidated volume, and improved access to credit markets. Other benefits can be quantified, including:

- **Transferred Volume:** When a facility closes, its patients will seek and receive services elsewhere. Patient volume will be transferred from closed facilities to other facilities. Such volume increases drive efficiencies, both in terms of finances and quality of care. Higher occupancy rates lead to better margins, and in turn, better access to capital and more funds for reinvestment.

- **Improved Access to State Funding:** Facility closures have direct positive implications on the reimbursement of indigent care, graduate medical education and workforce recruitment & retention. Insofar as closed facilities will no longer draw from the applicable HCRA pools, their allocations will be redistributed to the remaining pool participants.

- **Elimination of Duplicative Costs:** When facilities affiliate under a single unified governance structure, the resulting entity can achieve major efficiencies by eliminating or reducing unnecessary costs. For example, combined institutions can shed duplicative administrative staff and duplicative support services like laboratories, laundries, and food service operations, and can combine costly information technology systems. Some of these savings also benefit payors, to the extent that such savings are reflected in reimbursement rates.

Potential Savings for Payors

System restructuring also provides many savings for payors, both in terms of actual reductions in current expenditures and avoided future costs. Such opportunities for savings include:

- **Reductions in Inappropriate Utilization:** Hospitalizations and the use of expensive procedures increase in relation to the capacity that exists. This is most often regarded as a function of Roemer's Law; namely, the principle enunciated by health care economist Milton Roemer that supply induces demand where reimbursement is guaranteed by a third party. More colloquially, "a bed built is a bed filled".

  Reductions in excess capacity can eliminate inappropriate or unneeded utilization of services, reduce the costs associated with such utilization, and improve care by limiting unneeded and risky procedures. Previous hospital closures have established that some volume from a closed facility will not transfer to remaining facilities. This phenomenon is particularly likely in the highly competitive economic environment faced by hospitals in New York State, and the actual experience of recent closures suggests that its impact is significant. Similarly, the reduction of excess beds in a facility removes the incentive to fill those beds, resulting in greater efficiency and a reduction in inappropriate care.

  While this analysis clearly applies in the case of hospital closures and downsizings, it is less likely that nursing home residents will forego care upon closure of their nursing home. However, not every nursing home resident requires skilled nursing services. In fact, several of the Commission's recommendations are premised on the recognition that many nursing home residents would be more appropriately served in less intensive settings. It is for that reason that the Commission has recommended the conversion of some nursing home beds to less intensive assisted living, adult day health care, or long term home health care slots. These conversions will generate direct payer savings.

- **Avoided Capital Investment:** Physical plants, especially if underutilized, are expensive to maintain. Even empty buildings, wards, and beds carry fixed costs that must be paid. Furthermore, many of NY's health care facilities are old and in need of extensive renovation and capital upgrades. Depending on the age of a physical plant, capital investments are needed to keep current with modern therapeutic and regulatory requirements. The closure or downsizing of a facility generates substantial savings by avoiding capital expenses such as fire code compliance upgrades, improving heating and air conditioning, conversions to single rooms, modernizing elevators and other spaces, and expanding parking. These foregone capital expenses, which would otherwise be reflected in reimbursement rates, are substantial.

- **Leveraged Savings:** Additional savings can be achieved by the targeted reinvestment of the foregoing savings into further savings-generating activities. Similarly, funds currently used by the State to address potential emergency closures can be redirected toward initiatives designed to promote further system efficiencies.

Estimating Benefits and Savings: Transferred Volume and Reduction in Inappropriate Utilization

To ascertain the potential benefits to payers from avoided hospital volume and to providers from transferred hospital volume, the Commission first determined the dollar value of that volume by multiplying the 2004 discharges of each facility recommended for closure by that facility's average Medicaid rate per discharge. This yields a reasonable proxy for the value of the transferred and avoided volume, with three caveats. First, some of that volume was covered by payors other than Medicaid. However, the rates paid by private payers are proprietary and cannot be discerned. Second, some of that volume is uncompensated. However, the impact of that volume will be ameliorated by the fact that the receiving facilities' respective share of the indigent care pool will be increased by the closures. Third, the rates paid for transferred volume will change depending on the average rates of the receiving facilities, some of which are lower and some of which are higher than the closed facility. Recognizing these limitations, the Medicaid rate proxy is an appropriate method for estimating the dollar value of avoided and transferred volume.